

HANSON BRIDGETT LLP  
PATRICK GLENN- 141604  
pglenn@hansonbridgett.com  
KEVIN REESE - 172992  
kreese@hansonbridgett.com  
JAHMAL T. DAVIS - 191504  
jdavis@hansonbridgett.com  
425 Market Street, 26th Floor  
San Francisco, CA 94105  
Telephone: (415) 777-3200  
Facsimile: (415) 541-9366

Attorneys for Defendants  
AMERICA WEST AIRLINES, INC. and  
U.S. AIRWAYS, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

CLARISE JOY STEMLEY,

Plaintiff,

v.

AMERICA WEST AIRLINES, INC.; US  
AIRWAYS, INC.; and DOES 1  
THROUGH 25,

Defendant.

ORIGINAL  
FILED

APR 18 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

E-filing

EMC

NO 08-02040

NOTICE OF REMOVAL OF ACTION

ADR

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE THAT Defendants AMERICA WEST AIRLINES, INC.  
and U.S. AIRWAYS, INC. (hereinafter collectively "Defendants") hereby remove to this  
Court, on the basis of diversity jurisdiction, the state court action described below:

1. State Court Action: On February 14, 2008, Plaintiff CLARISE JOY  
STEMLEY (hereinafter "Plaintiff" or "Stemley") commenced this action in the Superior  
Court for the State of California, in and for the County of Alameda, entitled *Clarise Joy  
Stemley v. America West Airlines, Inc.; US Airways, Inc.*, Case No. RG08371442. A true  
and correct copy of the Summons and Verified Complaint filed by Plaintiff is attached

hereto as **Exhibit A**;

2. Timely Removal: Defendants were served with a copy of the Summons and Verified Complaint on March 21, 2008. A true and correct copy of the Summons served upon Defendants is attached hereto as **Exhibit B**;

3. Answer: Defendants have not filed an Answer to the Complaint but will appropriately respond pursuant to Federal Rule of Civil Procedure 81(c) after the removal of this action;

4. Jurisdiction: This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. section 1332, and is one that may be removed to this Court by Defendants pursuant to the provisions of 28 U.S.C. section 1441(b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000 exclusive of interest and costs;

5. Citizenship: Complete diversity of citizenship exists in that Plaintiff is a resident of the State of Florida. Defendant U.S. Airways, Inc. was, at the time of the filing of this action, and still is, a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Arizona. Defendant America West Airlines, Inc. was, at the time of the filing of this action, and still is, a limited liability company registered under the laws of the State of Delaware and having its principal place of business in the State of Arizona.

6. Request for Statement of Damages: On March 31, 2008, Defendants served upon Plaintiff a Request for Statement of Damages pursuant to California Code of Civil Procedure section 425.11. A copy of the Request for Statement of Damages and accompanying proof of service is attached hereto as **Exhibit C**. On April 16, 2008, Plaintiff served upon Defendants Plaintiff's Response to Defendants' Request for Statement of Damages. A copy of Plaintiff's Response to Defendants' Request for Statement of Damages and the accompanying proof of service is attached hereto as **Exhibit D**;

///

1           7.     Amount in Controversy: The Complaint seeks damages for three causes  
2 of action, including race discrimination, disability discrimination and denial of medical  
3 leave Family Rights Act, but it does not set forth the amount in controversy. In response  
4 to Defendants' Request for Statement of Damages, Plaintiff certified that she seeks  
5 damages for loss of earnings in the amount of \$65,000. Plaintiff also seeks damages for  
6 future earnings, pain and suffering, punitive damages, and attorney's fees and costs, all  
7 of which have yet to be ascertained. Thus, Defendants reasonably believe that the  
8 amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.  
9 *See, White v. FCI USA, Inc.* (5th Cir. 2003) 319 F.3d 672, 674 (Court determined it was  
10 facially apparent that Plaintiff's wrongful termination claim exceeded \$75,000 based on  
11 her "lengthy list of compensatory and punitive damages," including loss of pay, impaired  
12 earning capacity, emotional distress, and a request for attorneys' fees.);

13           8.     Venue: Venue lies in the United States District Court for the Northern  
14 District of California in that a substantial part of the alleged events or omissions on which  
15 Plaintiff's claims are based occurred in Oakland, California. 28 U.S.C. §1391(b);

16           9.     Intradistrict Assignment: Pursuant to Civil L.R. 3-2(d), this action is proper  
17 in the Oakland Division because the action arose in the County of Alameda;

18           10.    Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal is being  
19 filed with the Clerk of the Superior Court of the State of California, County of Alameda;

20           11.    Pursuant to 28 U.S.C. §1446(d), Defendants are providing written notice to  
21 Plaintiff;

22           12.    State Court Documents: Pursuant to the provisions of 28 U.S.C. §1446(a),  
23 Defendants attach herewith, and incorporate by reference, the following documents,  
24 which are all process, pleadings, and orders served on Defendants and filed in the  
25 Superior Court of the State of California in and for the County of Alameda prior to the  
26 filing of this Notice of Removal:

27               a.    Summons and Plaintiff's Verified Complaint: Alameda County  
28 Superior Court, Case No. RG08371442 (**Exhibit A**);

1 b. Civil Case Cover Sheet, Notice of Case Management Conference  
2 and Order, and Notice of Judicial Assignment for All Purposes: Alameda County  
3 Superior Court, Case No. RG08371442 (**Exhibit E**);

4 13. Service: Written Notice to Plaintiff and Proof of Service of the filing of this  
5 Notice of Removal by Defendants will be served upon all parties as required by law.

6 WHEREFORE, Defendants respectfully request that this action now proceed  
7 against Defendants in this Court as an action properly removed.  
8

9 DATED: April 18, 2008

HANSON BRIDGETT LLP

10  
11 By: 

12 PATRICK GLENN  
13 KEVIN D. REESE  
14 JAHMAL T. DAVIS  
15 Attorneys for Defendants  
16 AMERICA WEST AIRLINES, INC. and  
17 U.S. AIRWAYS, INC.  
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**EXHIBIT A**

**SUMMONS**  
**(CITACION JUDICIAL)****NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**AMERICA WEST AIRLINES, INC.; US AIRWAYS, INC.; AND  
DOES 1 THROUGH 25**YOU ARE BEING SUED BY PLAINTIFF:**  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

CLARISE JOYSTEMLEY

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)RECEIVED  
FEB 14 2008  
ALAMEDA COUNTY

FEB 14 2008

CLERK OF THE SUPERIOR COURT

B. [Signature]

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: SUPERIOR COURT OF CALIFORNIA  
(El nombre y dirección de la corte es): COUNTY OF ALAMEDA  
1225 FALLON STREET  
OAKLAND, CALIFORNIA 94612

CASE NUMBER: RG08371442  
(Número del Caso)

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: CURTIS G. OLER  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Post Office Box 15083, San Francisco, California 94115

Telephonpe: 415 346-8015 Facsimile 415 346-8238

Reshma Mishra

DATE: FEB 14 2008

PAT S. SWEETEN

Clerk, by  
(Secretario)Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

America West Airlines Inc

3. ☒ on behalf of (specify):

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
- ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
- ☐ other (specify):

4. ☒ by personal delivery on (date): 3-21-08

**SUMMONS**  
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):

AMERICA WEST AIRLINES, INC.; US AIRWAYS, INC.; AND  
DOES 1 THROUGH 25

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CLARISE JOYSTEMLEY

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

ENDORSED  
FILED  
ALAMEDA COUNTY

FEB 14 2008

CLERK OF THE COURT

By: *[Signature]*

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

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Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: SUPERIOR COURT OF CALIFORNIA  
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1225 FALLON STREET  
OAKLAND, CALIFORNIA 94612

CASE NUMBER: RG08371442  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: CURTIS G. OLER  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Post Office Box 15083, San Francisco, California 94115  
Telephone: 415 346-8015 Facsimile 415 346-8238

Reshma Mishra

DATE: FEB 14 2008  
(Fecha)

PAT S. SWEETEN

Clerk, by Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

*US Airways, Inc*

3. ☒ on behalf of (specify):

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☒ by personal delivery on (date):

*3-21-08*



CURTIS G. OLER (Bar No. 63689)  
LAW OFFICES OF CURTIS G. OLER  
Post Office Box 15083  
San Francisco, California 94115  
Telephone: 415 346-8015  
Facsimile: 415 346-8238

Attorney for Plaintiff  
CLARISE JOY STEMLEY

ENDORSED  
FILED  
ALAMEDA COUNTY  
FEB 14 2008  
CLERK OF THE SUPERIOR COURT  
By *[Signature]*

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA  
UNLIMITED JURISDICTION

RG08371442

CLARISE JOY STEMLEY,

Plaintiff,

vs.

AMERICA WEST AIRLINES, INC.;  
US AIRWAYS, INC.; and  
DOES 1 THROUGH 25,

Defendants.

NO. \_\_\_\_\_

COMPLAINT FOR DAMAGES

Government Code Section 12940, *et seq*

DEMAND FOR JURY TRIAL

Plaintiff, CLARISE JOY STEMLEY, files this Complaint and complains of the named Defendants, and each of them, jointly and severally, and for causes of action, alleges as follows:

FACTS COMMON TO ALL CAUSES OF ACTION

1. Plaintiff, CLARISE JOY STEMLEY, is a former employee of Defendants AMERICA WEST AIRLINES, INC., and US AIRWAYS, INC.

2. Defendant AMERICA WEST AIRLINES, INC., is a Delaware corporation, duly authorized to conduct business in the State of California, maintaining a principal office and place of business at the Oakland International Airport, Oakland, Alameda County, California.

3. Defendant US AIRWAYS, INC., is a Delaware corporation, duly authorized to



1 conduct business in the State of California, maintaining a principal office and place of business  
2 at the Oakland International Airport, Oakland, Alameda County, California.

3 4. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as  
4 DOES 1 through 25, inclusive, and therefore sues these Defendants by such fictitious names.  
5 Plaintiff will amend the complaint to allege their true names and capacities when ascertained.  
6 Plaintiff is informed and believes, and therefore alleges that each of the fictitiously named  
7 Defendants is lawfully responsible in some manner for the occurrences herein alleged, and that  
8 Plaintiff's losses as herein alleged were proximately caused by such individual actions.

9 5. Plaintiff is informed and believes, and thereby alleges that each of the Defendants  
10 herein was at all times relevant hereto the agent, employee, or representative of the remaining  
11 Defendants and was acting within the scope and course of such relationship.

12 6. On or about March 30, 2003, Plaintiff was employed by said Defendants as a  
13 Customer Service Representative at said location to perform the assigned duties thereof.

14 7. At all times during Plaintiff's said employment, she performed all of her assigned and  
15 related duties in an excellent fashion.

16 8. Although Plaintiff at all times continued to perform all of the assigned and related  
17 duties of her employment in an excellent fashion, Defendants initiated and maintained a  
18 continuing pattern of unlawful discriminatory employment practices against her which included,  
19 but were not limited to the denial of family leave culminating in the termination of her  
20 employment effective on or about October 12, 2005.

21 9. As a direct and proximate result of said actions and conduct of said Defendants,  
22 Plaintiff has suffered and continues to suffer damages as more particularly described below.

23 FIRST CAUSE OF ACTION

24 GOVERNMENT CODE SECTION 12940(a)

25 RACE DISCRIMINATION

26 As a first, separate and distinct cause of action, Plaintiff complains of Defendants and for  
27

1 cause of action, alleges:

2 10. Plaintiff hereby incorporates by reference paragraphs 1 through 9, as though set forth  
3 here in full.

4 11. Jurisdiction herein is invoked pursuant to the provisions of Government Code  
5 Section 12965, seeking a declaratory judgment, injunctive relief and damages for violations of  
6 the Plaintiff's employment rights as protected by the Fair Employment and Housing Act (FEHA),  
7 Government Code Section 12940(a), which provides that it shall be unlawful for an employer to  
8 discriminate against an employee, among other things, on account of race and color.

9 12. Plaintiff was an employee of African ancestry (Black) and is therefore a person  
10 protected by said provisions of said Act.

11 13. Defendants have maintained a pattern and practice of unlawful discriminatory  
12 employment practices against Plaintiff on account of her race and color by engaging in the  
13 actions and conduct as alleged in Paragraph 8 hereof in violation of the Fair Employment and  
14 Housing Act, Government Code Section 12940(a).

15 14. Defendants have taken the actions and conduct against Plaintiff as alleged herein on  
16 account of her race and color in violation of the Fair Employment and Housing Act, Government  
17 Code Section 12940(a).

18 15. As a direct result of said actions and conduct of Defendants as alleged herein,  
19 Plaintiff has suffered loss of and continues to suffer substantial loss of earnings and related  
20 employment benefits in an amount to be proven at trial herein.

21 16. In doing the acts and in engaging in the conduct herein alleged, Defendants intended  
22 to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional  
23 distress incurring and continuing to incur medical expenses therefor.

24 17. Defendants committed the abusive actions alleged herein maliciously, fraudulently  
25 and oppressively, with the wrongful intention of injuring Plaintiff and from an improper and evil  
26 motive amounting to malice, and in conscious and reckless disregard of her rights as an  
27

1 employee. Plaintiff is thus entitled to recover punitive damages from Defendant, commensurate  
2 with their conduct as alleged herein.

3 18. Plaintiff duly filed an administrative charge of discrimination herein on May 19,  
4 2006, with the California Department of Fair Employment and Housing (DFEH) which on  
5 February 14, 2007, issued a notice of right to sue thereon authorizing Plaintiff to initiate a civil  
6 action in the California Superior Court within one year of said date.

7 SECOND CAUSE OF ACTION

8 GOVERNMENT CODE SECTION 12940(a)

9 DISABILITY DISCRIMINATION

10 As a second, separate and distinct cause of action, Plaintiff complains of Defendants and  
11 for cause of action, alleges:

12 19. Plaintiff hereby incorporates by reference paragraphs 1 through 18, as though set  
13 forth here in full.

14 20. Jurisdiction herein is invoked pursuant to the provisions of Government Code  
15 Section 12965, seeking a declaratory judgment, injunctive relief and damages for violations of  
16 the Plaintiff's employment rights as protected by the Fair Employment and Housing Act (FEHA),  
17 Government Code Section 12940(a), which provides that it shall be unlawful for an employer, to  
18 discriminate against an employee, among other things, on account of physical disability.

19 21. Plaintiff suffered from a life altering physical disability.

20 22. Notwithstanding, Defendants have failed and refused to provide reasonable  
21 accommodation to Plaintiff for said injury and subjected Plaintiff to a variety of unlawful  
22 discriminatory employment practices because of such disability.

23 23. Defendants have maintained a pattern and practice of unlawful discriminatory  
24 employment practices against Plaintiff on account of her disability by engaging in the actions and  
25 conduct as alleged in Paragraph 8 hereof in violation of the Fair Employment and Housing Act,  
26 Government Code Section 12940(a).

1 24. Defendants have taken the actions and conduct against Plaintiff as alleged herein on  
2 account of her race and color in violation of the Fair Employment and Housing Act, Government  
3 Code Section 12940(a).

4 25. As a direct result of said actions and conduct of Defendants as alleged herein,  
5 Plaintiff has suffered loss of and continues to suffer substantial loss of earnings and related  
6 employment benefits in an amount to be proven at trial herein.

7 26. In doing the acts and in engaging in the conduct herein alleged, Defendants intended  
8 to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional  
9 distress incurring and continuing to incur medical expenses therefor.

10 27. Defendants committed the abusive actions alleged herein maliciously, fraudulently  
11 and oppressively, with the wrongful intention of injuring Plaintiff and from an improper and evil  
12 motive amounting to malice, and in conscious and reckless disregard of her rights as an  
13 employee. Plaintiff is thus entitled to recover punitive damages from Defendant, commensurate  
14 with their conduct as alleged herein.

15 28. Plaintiff duly filed an administrative charge of discrimination herein on May 19,  
16 2006, with the California Department of Fair Employment and Housing (DFEH) which on  
17 February 14, 2007, issued a notice of right to sue thereon authorizing Plaintiff to initiate a civil  
18 action in the California Superior Court within one year of said date.

19 THIRD CAUSE OF ACTION

20 DENIAL OF MEDICAL LEAVE FAMILY RIGHTS ACT

21 GOVERNMENT CODE SECTION 12945.2 and 19702.3

22 As a third, separate and distinct cause of action, Plaintiff complains of Defendants and for  
23 cause of action, alleges:

24 29. Plaintiff hereby incorporates by reference paragraphs 1 through 28, as though set  
25 forth here in full.

26 30. Jurisdiction herein is invoked pursuant to the provisions of Government Code

1 Section 12965, seeking a declaratory judgment, injunctive relief and damages for violations of  
2 the Plaintiff's employment rights as protected by the Fair Employment and Housing Act (FEHA),  
3 Government Code Sections 12945.2 and 19702.3, the Family Rights Act.

4 31. Plaintiff was an employee of Defendants and as such was protected by the provisions  
5 of said act.

6 32. As a result of injuries resulting in the disability alleged in paragraph 21, Plaintiff  
7 sought medical leave therefor pursuant to the provisions of said Act, but was unlawfully denied  
8 same on or about October 12, 2005, in violation of said Act resulting in the termination of her  
9 said employment.

10 33. As a direct result of said actions and conduct of Defendants as alleged herein,  
11 Plaintiff has suffered loss of and continues to suffer substantial loss of earnings and related  
12 employment benefits in an amount to be proven at trial herein.

13 34. In doing the acts and in engaging in the conduct herein alleged, Defendants intended  
14 to and did vex, harass, annoy and cause Plaintiff to suffer and continue to suffer severe emotional  
15 distress incurring and continuing to incur medical expenses therefor.

16 35. Defendants committed the abusive actions alleged herein maliciously, fraudulently  
17 and oppressively, with the wrongful intention of injuring Plaintiff and from an improper and evil  
18 motive amounting to malice, and in conscious and reckless disregard of her rights as an  
19 employee. Plaintiff is thus entitled to recover punitive damages from Defendant, commensurate  
20 with their conduct as alleged herein.

21 36. Plaintiff duly filed an administrative charge of discrimination herein on May 19,  
22 2006, with the California Department of Fair Employment and Housing (DFEH) which on  
23 February 14, 2007, issued a notice of right to sue thereon authorizing Plaintiff to initiate a civil  
24 action in the California Superior Court within one year of said date.

25 PRAYER FOR RELIEF

26 WHEREFORE, Plaintiff prays judgment against Defendants and each of them, as  
27

1 follows:

2 a) Grant Plaintiff a declaratory judgment that Defendants have violated Plaintiff's rights  
3 as guaranteed by the California Fair Employment and Housing Act (FEHA), California  
4 Government Code Section 12900, *et seq.*, in committing the acts and in engaging in the conduct  
5 complained of herein;

6 b) Permanently enjoin Defendants, their agents, successors, and employees and those  
7 acting in concert with them from engaging in each of the unlawful practices and policies  
8 complained of herein;

9 c) Award Plaintiff damages for all earnings and related employment benefits lost;

10 d) Reinstate Plaintiff to her said position or to a position commensurate with her skills  
11 and abilities without loss of pay, seniority or rank;

12 e) Award Plaintiff damages for future earnings loss;

13 f) Award Plaintiff damages for lost career and employment opportunities;

14 g) Order that all negative material be removed from Plaintiff's personnel file, or any other  
15 files or records maintained in connection with Plaintiff's employment;

16 h) Award Plaintiff compensatory damages for severe psychological harm in an amount to  
17 be proven at trial;

18 i) Award Plaintiff punitive damages in an amount commensurate with harm caused to  
19 Plaintiff and Defendant's financial ability;

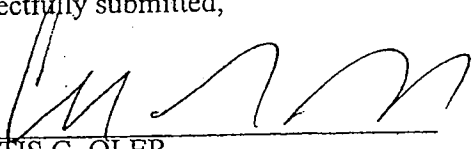
20 j) Award Plaintiff costs of suit;

21 k) Grant Plaintiff reasonable attorney's fees; and

22 l) Grant Plaintiff such other and further relief as the Court may deem proper and just.

23 Dated: February 12, 2008

Respectfully submitted,

24   
25 \_\_\_\_\_  
26 CURTIS G. OLER  
27 Attorney for Plaintiff  
28

# COMPLAINT OF DISCRIMINATION UNDER THE PROVISIONS OF THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT

DFEH # E200506M1708-00-f pe

EEOC # 37AA608779

If dual-filed with EEOC, this form may be affected by the Privacy Act of 1974.

## CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING and EEOC

COMPLAINANT'S NAME (indicate Mr. or Ms.)

STEMLEY, CLARISE J

ADDRESS

155 Nova Albion #20

TELEPHONE NUMBER (INCLUDE AREA CODE)

(415) 595-4392

CITY

San Rafael

STATE

CA

ZIP

94903

COUNTY

Marin

COUNTY CODE

041

NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:

NAME

AMERICA WEST AIRLINE

ADDRESS

1 Airport Dr

TELEPHONE NUMBER (INCLUDE AREA CODE)

(510) 563-3663

CITY

Oakland

STATE

CA

ZIP

94621

COUNTY

Oakland

COUNTY CODE

001

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))

☒ RACE ☐ SEX ☒ DISABILITY ☐ RELIGION ☐ NATIONAL ORIGIN/ANCESTRY ☒ DENIAL OF FAMILY/MEDICAL LEAVE ☐ SEXUAL ORIENTATION  
☐ COLOR ☐ AGE ☐ MARITAL STATUS ☐ MEDICAL CONDITION (cancer or genetic characteristics) ☐ OTHER (SPECIFY)

NO. OF EMPLOYEES/MEMBERS

CODE 11000

DATE MOST RECENT OR CONTINUING DISCRIMINATION

TOOK PLACE (month, day, and year) October 11, 2005

RESPONDENT

45

THE PARTICULARS ARE:

- I. From December 2004 until October 11, 2005, I was subjected to discriminatory treatment. On or about October 12, 2005 I was terminated. I was hired on March 30, 2003. My position was Customer Service Representative and I earned \$11.02 per hour.
- II. Nelson Camacho, Supervisor informed me that I was terminated for job abandonment.
- III. I believe I have been subjected to discriminatory treatment and terminated because of my race (African American) and Disabilities (Chronic Pain, High Blood Pressure, and Stress) for the following reasons:
  - A. I was denied a request that a non-African American was granted. Mr. Camacho often stated that I was "a strong Black woman," as well as frequent speeches about the "shoeshine man," and the "Black woman" who "worked as a janitor."
  - B. My employer refused to accept medical information from my medical care providers and terminated my employment on October 12, 2005.

RECEIVED  
MAY 19 2006

RETYPE AND MAILED May 12, 2006

I also want this charge filed with the Federal Equal Employment Opportunity Commission (EEOC).

declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

dated

4/10/06

COMPLAINANT'S SIGNATURE

City

FEH-300-01 (12/99)

O:DB:ss

DATE FILED:

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

STATE OF CALIFORNIA



**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**  
1515 Clay Street, Suite 701, Oakland, CA 94612  
(510) 622-2941 TTY (800) 700-2320 Fax (510) 622-2951  
www.dfeh.ca.gov



February 14, 2007

CLARISE J STEMLEY  
155 Nova Albion #20  
Gall Rafael, CA 94903

RE: E200506MN708-00-rpe/37AA608779  
STEMLEY/AMERICA WEST AIRLINE

Dear CLARISE J STEMLEY:

**NOTICE OF CASE CLOSURE**

The consultant assigned to handle the above referenced discrimination complaint that was filed with the Department of Fair Employment and Housing (DFEH) has recommended that the case be closed effective February 14, 2007. Please be advised that this recommendation has been accepted.

Based upon its investigation, DFEH is unable to conclude that the information obtained establishes a violation of the statute. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this complaint.

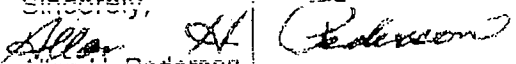
This letter is also your Right-To-Sue Notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. This is also applicable to DFEH complaints that are filed under, and allege a violation of Government Code section 12948 which incorporates Civil Code sections 51, 51.7, and 54. The civil action must be filed within one year from the date of this letter. However, if your civil complaint alleges a violation of Civil Code section 51, 51.7, or 54, you should consult an attorney about the applicable statutes of limitation. If a settlement agreement has been signed resolving the complaint, it is likely that your right to file a private lawsuit may have been waived.

Notice of Case Closure  
Page Two

This case may be referred to the U.S. Equal Employment Opportunity Commission (EEOC) for further review. If so, pursuant to Government Code section 12965, subdivision (d)(1), your right to sue will be tolled during the pendency of EEOC's review of your complaint.

Dfeh does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

  
Allan H. Pederson  
District Administrator

cc: Case File

Mia L. Belk  
Assistant General Counsel  
US AIRWAYS GROUP, INC.  
111 W Rio Salado Parkway  
Tempe, AZ 85281

Dfeh-200-08ew (06/06)  
MBOOKERD

VERIFICATION

I, CLARISE J. STEMLEY, declare:

I have read the foregoing Plaintiff's Complaint and know the contents thereof. The same is true of my own knowledge, except for those matters stated therein on information and belief, and as to those, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed on February 12, 2008, at San Francisco, California.

  
CLARISE J. STEMLEY

**EXHIBIT B**

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**

AMERICA WEST AIRLINES, INC.; US AIRWAYS, INC.; AND  
DOES 1 THROUGH 25

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

CLARISE JOYSTEMLEY

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

ENDORSED  
FILED  
ALAMEDA COUNTY

FEB 14 2008

CLERK OF THE SUPERIOR COURT

*[Signature]*

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.courtinfo.ca.gov/selfhelp/espanol/](http://www.courtinfo.ca.gov/selfhelp/espanol/)) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: SUPERIOR COURT OF CALIFORNIA  
(El nombre y dirección de la corte es): COUNTY OF ALAMEDA  
1225 FALLON STREET  
OAKLAND, CALIFORNIA 94612

CASE NUMBER: RG08371442  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: CURTIS G. OLER  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Post Office Box 15083, San Francisco, California 94115

Telephone: 415 346-8015 Facsimile 415 346-8238

Reshma Mishra

DATE: FEB 14 2008 PAT S. SWEETEN

Clerk, by \_\_\_\_\_, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify):

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☒ by personal delivery on (date): 3-21-08

*America West Airlines Inc*

(SEAL)

**SUMMONS**  
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):

AMERICA WEST AIRLINES, INC.; US AIRWAYS, INC.; AND  
DOES 1 THROUGH 25

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CLARISE JOYSTEMLEY

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

ENDORSED

ALAMEDA COUNTY

FEB 14 2008

CLERK OF U.S. DISTRICT COURT

By *[Signature]*

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

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1225 FALLON STREET  
OAKLAND, CALIFORNIA 94612

CASE NUMBER: RG08371442  
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: CURTIS G. OLER  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Post Office Box 15083, San Francisco, California 94115

Telephonpe: 415 346-8015 Facsimile 415 346-8238

Reshma Mishra

DATE: FEB 14 2008 PAT S. SWEETEN

Clerk, by \_\_\_\_\_ Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

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2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify):

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☒ by personal delivery on (date):

3-21-08

**EXHIBIT C**



1 HANSON BRIDGETT LLP  
2 KEVIN REESE - 172992  
3 krees@hansonbridgett.com  
4 JAHMAL T. DAVIS - 191504  
5 jdavis@hansonbridgett.com  
6 425 Market Street, 26th Floor  
7 San Francisco, CA 94105  
8 Telephone: (415) 777-3200  
9 Facsimile: (415) 541-9366

10 Attorneys for Defendants  
11 AMERICA WEST AIRLINES, INC. and U.S. AIRWAYS,  
12 INC.

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 CITY AND COUNTY OF ALAMEDA  
15 UNLIMITED JURISDICTION

16 CLARISE JOY STEMLEY,

17 Plaintiff,

18 v.

19 AMERICA WEST AIRLINES, INC.; US  
20 AIRWAYS, INC.; and DOES 1  
21 THROUGH 25,

22 Defendant.

No. RG08371442

23 REQUEST FOR STATEMENT OF  
24 DAMAGES PURSUANT TO CODE OF  
25 CIVIL PROCEDURE § 425.11

26 Action Filed: February 14, 2008  
27 Trial Date: not set

28 TO PLAINTIFF CLARISE JOY STEMLEY AND HER ATTORNEY OF RECORD:

Pursuant to Section 425.11 of the Code of Civil Procedure, Defendants AMERICA  
WEST AIRLINES, INC. and U.S. AIRWAYS, INC., through their attorneys of record,  
hereby request that you furnish a statement setting forth the nature and amount of  
damages being sought in this action, **within 15 days** of the date of this Request and in  
the manner required by law.

DATED: March 31, 2008

HANSON BRIDGETT LLP

By: 

KEVIN REESE  
JAHMAL T. DAVIS  
Attorneys for Defendants  
AMERICA WEST AIRLINES, INC. and  
U.S. AIRWAYS, INC.

PROOF OF SERVICE

Clarise Joy Stemley v. America West Airlines, Inc., et al.

Case No.: RG08371442

I, Joanne Leong, the undersigned, declare that I am a resident of the State of California. I am over the age of 18 years and not a party to the action entitled *Clarise Joy Stemley v. America West Airlines, Inc., et al.*; that my business address is 425 Market Street, 26th Floor, San Francisco, California 94105. On March 31, 2008, I served a true and accurate copy of the document(s) entitled:

**REQUEST FOR STATEMENT OF DAMAGES PURSUANT TO CODE OF CIVIL PROCEDURE § 425.11**

on the party(ies) in this action by placing said copy(ies) in a sealed envelope, each addressed to the last address(es) given by the party(ies) as follows:

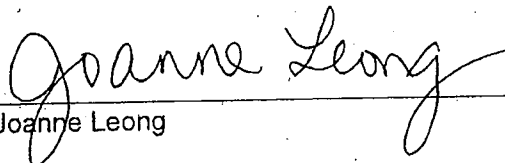
Curtis G. Oler, Esq.  
Law Offices of Curtis G. Oler  
P.O. Box 15083  
San Francisco, CA 94115  
(415) 346-8015  
(415) 346-8238 fax

*Attorneys for Plaintiff*  
**CLARISE JOY STEMLEY**



(By Express Mail pursuant to Code of Civil Procedure section 1013.) I deposited each sealed envelope, with the postage prepaid, to be delivered via United States Postal Service, Express Mail to the party(ies) so designated on the service list.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and was executed on March 31, 2008 at San Francisco, California.

  
Joanne Leong

**EXHIBIT D**

CURTIS G. OLER (Bar No. 63689)  
 LAW OFFICES OF CURTIS G. OLER  
 Post Office Box 15083  
 San Francisco, California 94115  
 Telephone: 415 346-8015  
 Facsimile: 415 346-8238

Attorney for Plaintiff  
 CLARISE JOY STEMLEY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 IN AND FOR THE COUNTY OF ALAMEDA  
 UNLIMITED JURISDICTION

CLARISE JOY STEMLEY,

Plaintiff,

vs.

AMERICA WEST AIRLINES, INC.;  
 US AIRWAYS, INC.; and  
 DOES 1 THROUGH 25,

Defendants.

NO. RG08371442

RESPONSE TO  
 STATEMENT OF DAMAGES

[CCP Section 425.11]

Complaint filed: February 14, 2008  
 Trial Date: Not yet set

TO DEFENDANTS AMERICA WEST AIRLINES, INC., US AIRWAYS, INC., AND  
 THEIR ATTORNEY OF RECORD:

The nature and amount of damages sought in the above entitled action are as follows:

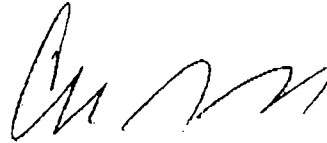
- |   |                     |
|---|---------------------|
| 1. Loss of earnings                         | \$ 65,000.00        |
| 2. Future earnings loss                     | Not yet ascertained |
| 3. Damages for emotional pain and suffering | Not yet ascertained |
| 4. Punitive damages                         | Not yet ascertained |
| 5. Attorney's fees and costs                | Not yet ascertained |

Response to Statement of Damages

1

EXHIBIT D

1 Dated: April 15, 2008



2  
3  
4 CURTIS G. OLER  
Attorney for Plaintiff

## CERTIFICATE OF SERVICE

I, CURTIS G. OLER, am over the age of 18 years and am not a party to the within action. My mailing address is Post Office Box 15083, San Francisco, California.

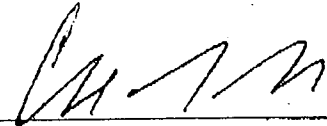
On April 16, 2008, I served the attached

Statement of Damages

by first class mail, postage thereon fully prepaid, sealed in an envelope and addressed as follows:

Jahmal T. Davis, Esq.  
Hanson Bridgett  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, California 94105

I declare under penalty of perjury that the foregoing is true and correct and that this Certificate of Service was executed on April 16, 2008, at San Francisco, California.

  
\_\_\_\_\_  
CURTIS G. OLER

**EXHIBIT E**



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>CURTIS G. OLER (Bar No. 63689)</b> <b>LAW OFFICES OF CURTIS G. OLER</b> <b>P. O. BOX 15083, SAN FRANCISCO, CALIFORNIA 94115</b> TELEPHONE NO.: 415 346-8015 FAX NO.: 415 - 346-8238 ATTORNEY FOR (Name): <b>Plaintiff</b>		FOR CC: *6166779*  <b>FILED</b> <b>ALAMEDA COUNTY</b> <b>FEB 14 2008</b> CLERK OF THE SUPERIOR COURT By <u>[Signature]</u> Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>ALAMEDA</b> STREET ADDRESS: <b>1225 Fallon Street</b> MAILING ADDRESS: <b>Oakland, California 94612</b> CITY AND ZIP CODE: BRANCH NAME:		CASE NUMBER: <b>RG08371442</b> JUDGE: DEPT:
CASE NAME: <b>CLARISE JOY STEMLEY VS. AMERICA WEST AIRLINES, INC., ET AL.</b>		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	---

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary    b. ☒ nonmonetary; declaratory or injunctive relief    c. ☒ punitive

4. Number of causes of action (specify): **3**

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **February 14, 2008**

**CURTIS G. OLER**  
(TYPE OR PRINT NAME)

[Signature]  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

#### NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

LAW OFFICES OF CURTIS G. OLER

Attn: Oler, Curtis G.

P. O. Box 15083

San Francisco, CA 94115

**Superior Court of California, County of Alameda**

Stemley

Plaintiff/Petitioner(s)

VS.

America West Airlines, Inc.

Defendant/Respondent(s)

(Abbreviated Title)

No. RG08371442**NOTICE OF CASE MANAGEMENT  
CONFERENCE AND ORDER**  
Unlimited Jurisdiction

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD.

Notice is given that a Case Management Conference has been scheduled as follows:

Date: 07/11/2008 Time: 09:15 AM	Department: 30 Location: U.S. Post Office Building Second Floor 201 13th Street, Oakland CA 94612  Internet: <a href="http://www.alameda.courts.ca.gov">http://www.alameda.courts.ca.gov</a>	Judge: Kenneth Mark Burr Clerk: Kathy McKean Clerk telephone: (510) 268-5104 E-mail: <a href="mailto:Dept.30@alameda.courts.ca.gov">Dept.30@alameda.courts.ca.gov</a> Fax: (510) 267-1510
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**ORDERS**

1. You must:

- Serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (CRC 3.110(b));
- Give notice of this conference to any party not included in this notice and file proof of service;
- Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than 30 calendar days before the date set for the Case Management Conference;
- File and serve a completed Case Management Conference Statement (use of Judicial Council Form CM 110 is mandatory) at least 15 days before the Case Management Conference (CRC 3.725)

2. If you do not follow the orders above, you are hereby ordered to show cause why you should not be sanctioned under CRC 2.30. The hearing on the Order to Show Cause re: Sanctions will be at the same time as the Case Management Conference. Sanctions may include monetary sanctions and any other sanction permitted by law, including striking pleadings or dismissing the action.

3. You are further ordered to appear in person\* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.

4. The Direct Calendar Judge will issue orders at the conclusion of the conference that should include:
- Referring to ADR and setting an ADR completion date
  - Dismissing or severing claims or parties
  - Setting a trial date.

\*Telephonic appearances at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties may make arrangements by calling 1-888-882-6878, or faxing a service request to 1-888-882-2946. This service is subject to charges by the vendor.

**CLERK'S CERTIFICATE OF MAILING**

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 02/19/2008.

By



Deputy Clerk

**Superior Court of California, County of Alameda**



**Notice of Judicial Assignment for All Purposes**

Case Number: RG08371442  
Case Title: Stemley VS America West Airlines, Inc.  
Date of Filing: 02/14/2008

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

This case is hereby assigned for all purposes to:

Judge: Kenneth Mark Burr  
Department: 30  
Address: U.S. Post Office Building  
201 13th Street  
Oakland CA 94612  
Phone Number: (510) 268-5104  
Fax Number: (510) 267-1510  
Email Address: Dept.30@alameda.courts.ca.gov

Under direct calendaring, this case is assigned to a single judge for all purposes including trial.

**Please note: In this case, any challenge pursuant to Code of Civil Procedure §170.6 must be exercised within the time period provided by law. (See Govt. Code 68616(i); Motion Picture and Television Fund Hosp. v. Superior Court (2001) 88 Cal.App.4th 488, 494; and Code Civ. Proc. §1013.)**

IT IS THE DUTY OF EACH PLAINTIFF AND CROSS COMPLAINANT TO SERVE A COPY OF THIS NOTICE IN ACCORDANCE WITH LOCAL RULE 3.135.

**General Procedures**

All pleadings and other documents must be filed in the clerk's office at any court location except when the Court permits the lodging of material directly in the assigned department. All documents, with the exception of the original summons and the original civil complaint, shall have clearly typed on the face page of each document, under the case number, the following:

ASSIGNED FOR ALL PURPOSES TO  
JUDGE Kenneth Mark Burr  
DEPARTMENT 30

Counsel are expected to know and comply with the Local Rules of this Court, which are available on the Court's website at: <http://www.alameda.courts.ca.gov/courts/rules/index.shtml> and with the California Rules of Court, which are available at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

The parties are always encouraged to consider using various alternatives to litigation, including mediation and arbitration, prior to the Initial Case Management Conference. The Court may refer parties to alternative dispute resolution resources.

A courtesy copy of all filed briefs must be delivered directly to Department 30.

### **Schedule for Department 30**

The following scheduling information is subject to change at any time, without notice. Please contact the department at the phone number or email address noted above if you have questions.

- Trials generally are held: Court Trials: Mondays through Thursdays at 9:45 a.m.
- Jury Trials: Mondays through Thursdays at 9:45 a.m.
- Master Trial Calendar: Fridays at 9:30 a.m.
- Case Management Conferences are held: Initial Case Management Conferences: Fridays at 9:15 a.m., 9:45 a.m., 10:45 a.m. and 11:15 a.m.
- Case Management Conference Continuances: Mondays through Thursdays at 9:15 a.m.
- Law and Motion matters are heard: Tuesdays and Wednesdays at 9:30 a.m.
- Settlement Conferences are heard: Fridays at 9:30 a.m., 10:00 a.m. and 10:30 a.m.
- Ex Parte matters are heard: Tuesdays and Thursdays at 9:00 a.m.
- For time-sensitive emergency applications, contact the Court by email to receive instructions on when the matter may be heard.

### **Law and Motion Procedures**

To obtain a hearing date for a Law and Motion or ex parte matter, parties must contact the department as follows:

- Motion Reservations  
Email: Dept.30@alameda.courts.ca.gov

Reservations by email only.

- Ex Parte Matters  
Email: Dept.30@alameda.courts.ca.gov

Reservations by email only.

### **Tentative Rulings**

The court will issue tentative rulings in accordance with the Local Rule 3.30(c). Tentative

rulings will become the Court's order unless contested. Tentative rulings will be available at:

- Website: [www.alameda.courts.ca.gov/domainweb](http://www.alameda.courts.ca.gov/domainweb), Calendar Information for Dept. 30
- Phone: 1-866-223-2244

Dated: 02/15/2008

Executive Officer / Clerk of the Superior Court

By



Deputy Clerk

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**CLERK'S CERTIFICATE OF MAILING**

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown on the attached Notice of Initial Case Management Conference and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 02/19/2008

By



Deputy Clerk